

Assembly Bill No. 2728

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 25, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 926.1 of the Insurance Code, and to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2728, Atkins. Insurance: community development investments.

(1) Existing law requires each admitted insurer with annual premiums written in California equal to or less than \$100,000,000 to provide information to the Insurance Commissioner by July 1, 2016, on all of its community development investments, community development infrastructure investments, and green investments, as defined, in California. Existing law defines a community development investment as certain projects, developments, or activities that, among other things, benefit low- or moderate-income individuals or families. Existing law defines community development infrastructure as California public debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities consistent with the types of projects, developments, or activities specified as community development investments. Existing law defines a green investment, among other things, as specified projects offering energy efficiency improvements and renewable energy generation. Existing law requires the insurer to list investments that are high impact which is an investment that is innovative, responsive to community needs, not routinely provided by an insurer, or has a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

This bill would instead define a community development investment as certain projects, developments, or activities that, among other things, benefit low-to-moderate income individuals or families. The bill would include investments in reservation-based communities and investments in rural areas, as defined, in community development investments. The bill would instead define

community development infrastructure as all California debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low-to-moderate income communities. This bill would include water and waste management and sustainable agriculture projects in the definition of a green investment. The bill would instead define a high-impact investment as an investment that is innovative, responsive to community needs, not routinely provided by an insurer, and provides at least 50% social or environmental benefit to low-to-moderate income individuals, families, or communities in the state. The bill would also define “diverse investment managers” as investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, LLCs, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51% women, veterans, or minorities, or a combination of persons in those groups.

(2) Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. Existing law, until January 1, 2017, allows a credit under the Personal Income Tax Law, the Corporation Tax Law, and a credit against the tax imposed on an insurer in an amount equal to 20% of a qualified investment, as defined, made in a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, \$50,000,000 per year and authorizes the California Organized Investment Network to certify investments for the credit until January 1, 2017. Existing law provides that if a qualified investment is reduced before the end of the 60th month, but not below \$50,000, an amount equal to 20% of the total reduction for the year shall be added to the tax imposed on the taxpayer. Existing law also provides that if a qualified investment is withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, the entire amount of any credit previously allowed for that taxable year is required to be added to the tax imposed on the taxpayer.

This bill would extend the provisions relating to the authorization of the credit and certification by the California Organized Investment Network until January 1, 2018. The bill would require priority for the tax credit to be given to insurance company

investors. The bill would delete the provision described above relating to a reduction of a qualified investment and would instead require that the provision regarding withdrawal, without reinvestment, of a qualified investment also apply when a qualified investment is reduced.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that, upon fulfillment of the requirements of Section 926.2 of the Insurance Code by the Department of Insurance related to the California Organized Investment Network program, there shall be future reporting requirements for insurers doing business in California to report to the department through the Community Investment Survey Data Call on community development investments, community development infrastructure investments, green investments, and investments with diverse investment managers.

SEC. 2. Section 926.1 of the Insurance Code is amended to read:

926.1. As used in this article, the following terms shall have the following meanings:

(a) “Area median income” (AMI) means either of the following:

(1) The median family income for the Metropolitan Statistical Area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions.

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(b) “Community development investment” means an investment where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- to moderate-income individuals, families, or communities. “Community development investment” includes, but is not limited to, investments in California in the following:

(1) Affordable housing, including multifamily rental and ownership housing, for low- to moderate-income individuals or families.

(2) Community facilities or community services providers (including providers of education, health, or social services)

directly benefiting low- to moderate-income individuals, families, or communities.

(3) Economic development that demonstrates benefits, including, but not limited to, job creation, retention, or improvement, or provision of needed capital, to low- to moderate-income individuals, families, or communities, including urban or rural communities, or businesses or nonprofit community service organizations that serve these communities.

(4) Activities that revitalize or stabilize low- to moderate-income communities.

(5) Investments in or through California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, if these investments directly benefit low- to moderate-income individuals, families, and communities and are consistent with this article.

(6) Community development infrastructure investments.

(7) Investments in a commercial property or properties located in low- to moderate-income geographical areas that are consistent with this article.

(8) Investments in reservation-based communities. “Reservation-based” means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of “Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs,” or successor document, as published in the Federal Register by the Bureau of Indian Affairs.

(9) Investments in rural areas. “Rural area” means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of, or associated with, has either a population not exceeding 10,000 persons or has a population not exceeding 20,000 persons and is contained within a nonmetropolitan area. “Rural area” also means any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population of that area does not exceed 20,000 persons and that area is not part of, or associated with, an urban area and is rural in character.

(c) “Community development infrastructure” means California public debt (including all debt issued by the State of California or a California state or local government agency) where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- to moderate-income communities and is consistent with subdivision (b).

(d) “Diverse investment managers” means investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, LLCs, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51 percent women, veterans, or minorities, or a combination of persons in those groups.

(e) “Geography” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(f) “Green investments” means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. “Green investments” also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, water and waste management, sustainable agriculture, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(g) “High-impact investments” means investments that are innovative, responsive to community needs, not routinely provided by insurers, and provide at least 50 percent social or environmental benefit to low- to moderate-income individuals, families, or communities in California.

(h) “Insurer” means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(i) “Investment” means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(j) “Low-income” means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(k) “MSA” means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(l) “Moderate-income” means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(m) “Nonmetropolitan area” means any area that is not located in an MSA.

SEC. 3. Section 12209 of the Revenue and Taxation Code is amended to read:

12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2018, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) For purposes of determining any tax that may be imposed under Section 685 of the Insurance Code on a taxpayer not organized under the laws of this state, the amount of the credit allowed by subdivision (a) shall be treated as a tax paid under Section 12201 or Section 28 of Article XIII of the California Constitution.

(c) (1) Notwithstanding any other provision of this part, a credit shall not be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) A credit shall not be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of

Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment as defined in paragraph (1) of subdivision (h).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 17053.57, and Section 23657 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(B) The total amount of qualified investments certified by the California Organized Investment Network in any calendar year to any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, shall not exceed 30 percent of the annual aggregate amount of qualified investments certified by the California Organized Investment Network. If, after October 1, the California Organized Investment Network has determined that the availability of tax credits exceed their demand, then a community development financial institution that has been allocated 30 percent of the annual aggregate amount of qualified investments shall become eligible to apply to be certified for any remaining tax credits in that calendar year.

(C) Each year, 10 percent of the annual aggregate amount of qualified investments shall be reserved for investment amounts of less than or equal to two hundred thousand dollars (\$200,000). If, after October 1, there remains an unallocated portion of the amount reserved for investments of less than or equal to two hundred thousand dollars (\$200,000), then qualified investments in excess of two hundred thousand dollars (\$200,000) may be eligible for that remaining unallocated portion.

(4) Priority among housing applications shall be given to applications that support affordable rental housing, housing for veterans, mortgages for community-based residential programs, and self-help housing ahead of single-family owned housing.

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(d) The community development financial institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a community development financial institution.

(2) (A) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(B) Provide in the application a detailed description of the intended use of the investment funds including, but not limited to, the following:

(i) All of the programs, projects, and services that would be funded.

(ii) The percentage of the intended use of the investment funds that would directly benefit low-to-moderate income households.

(iii) The percentage of the intended use of the investment funds that would directly benefit rural areas.

(iv) The percentage of the intended use of the investment funds that is a green investment as defined in Section 926.1 of the Insurance Code.

(3) (A) Provide in the application required in paragraph (2) the following information to the Department of Insurance, California Organized Investment Network, or its successor:

(i) Name of the taxpayer.

(ii) Postal address of the taxpayer, or residential address of the taxpayer if the taxpayer is an individual.

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

(v) The taxpayer's California company identification number for tax administration purposes.

(B) The information provided in subparagraph (A) shall be used only for internal purposes by the Department of Insurance, California Organized Investment Network, or its successor, and any public disclosure of that information shall be limited to the name of the taxpayer only.

(4) Provide an annual listing to the State Board of Equalization, in the form and manner agreed upon by the State Board of Equalization and the Department of Insurance, California

Organized Investment Network, or its successor, of the names and taxpayer's California company identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the department, California Organized Investment Network, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(e) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, 2018, but not after that date.

(f) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, adopt, amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(g) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a community development financial institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (h). The certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend

or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (c), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for low-to-moderate income areas or households or rural areas or households. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(3) Provide an annual listing to the State Board of Equalization, in the form or manner agreed upon by the State Board of Equalization and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective National Association of Insurance Commissioners company number and employer's tax identification number, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(h) For purposes of this section:

(1) "Qualified investment" means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have

full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that, consistent with the legislative findings, declarations, and intent set forth in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(i) If a qualified investment is reduced or withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, there shall be added to the “tax,” as defined in Section 28 of Article XIII of the California Constitution, for the year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(j) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four years, or until the credit has been exhausted, whichever occurs first.

(k) The State Board of Equalization shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(l) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section

9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 17053.57, and Section 23657, with a focus on employment in low-to-moderate income and rural areas, and on the benefits of these tax credits to low-to-moderate income and rural persons.

(m) This section shall remain in effect only until December 1, 2018, and as of that date is repealed.

SEC. 4. Section 17053.57 of the Revenue and Taxation Code is amended to read:

17053.57. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2018, there shall be allowed as a credit against the amount of “net tax,” as defined in Section 17039, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) (1) Notwithstanding any other provision of this part, a credit shall not be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) A credit shall not be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment, as defined in paragraph (1) of subdivision (g).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 23657 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(B) The total amount of qualified investments certified by the California Organized Investment Network in any calendar year to any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, shall not exceed 30 percent of the annual aggregate amount of qualified investments certified by the California Organized Investment Network. If, after October 1, the California Organized Investment Network has determined that the availability of tax credits exceed their demand, then a community development financial institution that has been allocated 30 percent of the annual aggregate amount of qualified investments shall become eligible to apply to be certified for any remaining tax credits in that calendar year.

(C) Each year, 10 percent of the annual aggregate amount of qualified investments shall be reserved for investment amounts of less than or equal to two hundred thousand dollars (\$200,000). If, after October 1, there remains an unallocated portion of the amount reserved for investments of less than or equal to two hundred thousand dollars (\$200,000), then qualified investments in excess of two hundred thousand dollars (\$200,000) may be eligible for that remaining unallocated portion.

(4) Priority among housing applications shall be given to applications that support affordable rental housing, housing for veterans, mortgages for community-based residential programs, and self-help housing ahead of single-family owned housing.

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(c) The community development financial institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a community development financial institution.

(2) (A) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer, for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(B) Provide in the application a detailed description of the intended use of the investment funds including, but not limited to, the following:

(i) All of the programs, projects, and services that would be funded.

(ii) The percentage of the intended use of the investment funds that would directly benefit low-to-moderate income households.

(iii) The percentage of the intended use of the investment funds that would directly benefit rural areas.

(iv) The percentage of the intended use of the investment funds that is a green investment as defined in Section 926.1 of the Insurance Code.

(3) (A) Provide in the application required in paragraph (2) the following information to the Department of Insurance, California Organized Investment Network, or its successor:

(i) Name of the taxpayer.

(ii) Postal address of the taxpayer, or residential address of the taxpayer if the taxpayer is an individual.

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

(v) The taxpayer's identification number, or in the case of a partnership, the taxpayer identification numbers of all the partners for tax administration purposes.

(B) The information provided in subparagraph (A) shall be used only for internal purposes by the Department of Insurance, California Organized Investment Network, or its successor, and any network or its successor shall limit all public disclosure of that information to the name of the taxpayer only.

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the Department of Insurance, California Organized Investment Network, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, adopt,

amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(e) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, 2018, but not after that date.

(f) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a community development financial institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (g). The certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from a community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for low-to-moderate income areas or households or rural areas or households. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total

amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(g) For purposes of this section:

(1) “Qualified investment” means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment

Network, or its successor, that, consistent with the legislative findings, declarations, and intent set forth in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(h) If a qualified investment is reduced or withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(i) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(j) The Franchise Tax Board shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(k) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 23657, with a focus on employment in low-to-moderate income and rural areas, and on the benefits of these tax credits to low-to-moderate income and rural persons.

(l) This section shall remain in effect only until December 1, 2018, and as of that date is repealed.

SEC. 5. Section 23657 of the Revenue and Taxation Code is amended to read:

23657. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2018, there shall be allowed as a credit against the amount of “tax,” as defined in Section 23036, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a

community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) (1) Notwithstanding any other provision of this part, a credit shall not be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) A credit shall not be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment, as defined in paragraph (1) of subdivision (g).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 17053.57 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(B) The total amount of qualified investments certified by the California Organized Investment Network in any calendar year to any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, shall not exceed 30 percent of the annual aggregate amount of qualified investments certified by the California Organized Investment Network. If, after October 1, the California Organized Investment Network has determined that the availability of tax credits exceed their demand, then a community development financial institution that has been allocated 30 percent of the annual aggregate amount of qualified investments shall become eligible to apply to be certified for any remaining tax credits in that calendar year.

(C) Each year, 10 percent of the annual aggregate amount of qualified investments shall be reserved for investment amounts of

less than or equal to two hundred thousand dollars (\$200,000). If, after October 1, there remains an unallocated portion of the amount reserved for investments of less than or equal to two hundred thousand dollars (\$200,000), then qualified investments in excess of two hundred thousand dollars (\$200,000) may be eligible for that remaining unallocated portion.

(4) Priority among housing applications shall be given to applications that support affordable rental housing, housing for veterans, mortgages for community-based residential programs, and self-help housing ahead of single-family owned housing.

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(c) The community development financial institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a community development financial institution.

(2) (A) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer, for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(B) Provide in the application a detailed description of the intended use of the investment funds including, but not limited to, the following:

(i) All of the programs, projects, and services that would be funded.

(ii) The percentage of the intended use of the investment funds that would directly benefit low-to-moderate income households.

(iii) The percentage of the intended use of the investment funds that would directly benefit rural areas.

(iv) The percentage of the intended use of the investment funds that is a green investment as defined in Section 926.1 of the Insurance Code.

(3) (A) Provide in the application required in paragraph (2) the following information to the Department of Insurance, California Organized Investment Network, or its successor:

(i) Name of the taxpayer.

(ii) Postal address of the taxpayer, or residential address of the taxpayer if the taxpayer is an individual.

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

(v) The taxpayer's California company identification number for tax administration purposes, or in the case of an "S" corporation, the taxpayer identification numbers of all the shareholders for tax administration purposes.

(B) The information provided in subparagraph (A) shall be used only for internal purposes by the Department of Insurance, California Organized Investment Network, or its successor, and any public disclosure of that information shall be limited to the name of the taxpayer only.

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the department, California Organized Investment Network, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, 2018, but not after that date.

(e) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, adopt, amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(f) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a community development financial institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (g). The certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for low-to-moderate income areas or households or rural areas or households. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(g) For purposes of this section:

(1) “Qualified investment” means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that, consistent with the legislative findings, declarations, and intent set forth in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(h) If a qualified investment is reduced or withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, there shall be

added to the “tax,” as defined in Section 23036, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(i) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(j) The Franchise Tax Board shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(k) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 17053.57, with a focus on employment in low-to-moderate income and rural areas, and on the benefits of these tax credits to low-to-moderate income and rural persons.

(l) This section shall remain in effect only until December 1, 2018, and as of that date is repealed.

Approved _____, 2016

Governor